

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**STANDING ORDER FOR CIVIL PRACTICE IN CASES
ASSIGNED FOR ALL PURPOSES TO
MAGISTRATE JUDGE PATRICIA V. TRUMBULL**
(rev. 5/11/99)

The parties shall follow the General Orders of the Court for the Northern District of California, the Local Rules, and the Federal Rules of Civil Procedure, except as expressly modified herein. Failure to comply with any of the rules and orders may be deemed sufficient grounds for monetary sanctions, dismissal, entry of default judgment, or other appropriate sanctions. The rules and orders are supplemented and modified as follows:

A. CASE MANAGEMENT

1. A Case Management Conference will be held on TUESDAY,

at 2:00 p.m., Courtroom 5, United States Courthouse, 280 South First Street, San Jose, CA 95113. This conference may be continued only on order of the Court; parties may not stipulate to continue a case management conference without leave from the Court.

2. Pursuant to Civil Local Rule 16-13, lead counsel for the parties must file a Joint Case Management Statement and Proposed Order (see attached format) unless otherwise ordered. If preparation of a joint statement will cause undue hardship, the parties shall serve and file separate statements, as well as a declaration describing the undue hardship. The statement is due no later than the date specified in the case management schedule.

B. MOTION PRACTICE

1. **Discovery Motions.** All civil discovery matters are specially set. Before filing any papers in civil discovery motions, the moving party and opposing party must together telephone Judge Trumbull's law clerk at (408) 535-5434 for setting the briefing schedule and a hearing date, if appropriate. This procedure for discovery motions is used in lieu of the noticed, ex parte and expedited briefing schedules prescribed by the Local Rules. Absent urgent circumstances, hearings on discovery motions are held on Judge Trumbull's civil motion calendar Tuesdays at 10:00 a.m. The page length limitations of Local Rule 7-4(b) apply unless other page length limitations are set by the law clerk during the scheduling conference call.

2. **Law and Motion Calendar.** The Civil Motion calendar is heard every Tuesday at 10:00 a.m. Substantive motions may be noticed under the local rules without contacting the

court to reserve a hearing date.

3. Dispositive Motions. Within two weeks after any party files a dispositive motion, if written consents to Magistrate Judge jurisdiction have not yet been filed by all parties, all parties who have not yet filed such a consent must notify the court whether they consent to the jurisdiction of the Magistrate Judge. If a party chooses to consent, the attorney of record for the party, or the party if he or she is unrepresented, must sign a document stating that the party consents to the jurisdiction of the Magistrate Judge for any and all proceedings, including trial. Consent forms may be obtained from the clerk's office, or from the courtroom deputy. If any party chooses not to consent, the attorney of record or unrepresented party must promptly notify the courtroom deputy at (408) 535-5378. **The court will not hear argument on dispositive motions without affirmative, written consents.**

C. EFFECT OF REASSIGNMENT TO A DISTRICT COURT JUDGE

In the event a case that is originally assigned to Judge Trumbull is later reassigned to a District Court Judge, and unless otherwise ordered by the court, the case will remain assigned to Judge Trumbull for a case management conference on the date specified above, and for all discovery matters. For Judge Trumbull's procedure for discovery motions, see part B.1., above.

D. TRIAL PRACTICE (FOR COURT OR JURY TRIAL AS APPLICABLE)

1. Pretrial Statement. Parties must file a joint pretrial statement 10 court days prior to the pretrial conference, in compliance with Local Rule 16-15.

2. Jury Instructions. The court has a standard set of preliminary instructions which will be given at the beginning of trial and standard closing instructions which will be given prior to closing argument based upon the Model Jury Instructions of the Ninth Circuit. The parties should not submit preliminary or closing instructions.

The parties shall file a **joint** set of all proposed substantive instructions, unless specific leave to the contrary is granted by the Court. The Court prefers parties to use the Model Jury Instructions of the Ninth Circuit or California Jury Instructions, modified and supplemented as necessary. The jury instructions must be filed no later than the day of the joint pretrial conference. The parties shall also submit to the court: 1) a copy of all proposed instructions on a computer disk in either ASCII text or WordPerfect format; and 2) an additional copy of the proposed jury instructions in a three-ring binder for the court's use.

In the event parties are unable to agree on the language of a particular instruction, the objecting party shall submit an alternative instruction, placed immediately following the instruction to

which an objection is being made, and a brief statement of the ground for the objection. **Challenged instructions must be clearly marked and identified.**

Each proposed instruction shall be written in plain language, comprehensible to jurors, concise and free from argument, cover only one subject which shall be indicated in the caption, and be written out in full on a separate page. On a separate page following each instruction, the parties must provide citation to the authority upon which each instruction is based.

3. Voir Dire. Proposed voir dire questions shall be submitted to the Court at the same time as proposed jury instructions. The examination of trial jurors shall be conducted by the Judge. The Court will also allow limited follow up voir dire by attorneys. Juror questionnaires are permitted in limited situations. If the parties wish to submit juror questionnaires, the parties must contact the court well in advance of the pretrial conference to discuss procedures.

4. Form of Verdict. Each party shall serve and submit to the court its proposed form of verdict on the day of the pretrial conference. In addition to the paper copy, each party shall also submit a copy of its proposed form of verdict on a computer disk in either ASCII text or WordPerfect format.

5. Exhibit Lists. Parties must include a list of exhibits in the pretrial statement. The list must include a description and number. The parties must meet and confer on a division which will avoid duplication of numbering. If possible, parties should stipulate to the authenticity and admissibility of exhibits prior to trial. **Any disputes regarding the authenticity and/or admissibility of any exhibits must be brought to the court's attention no later than the morning of the first day of trial, or the objections will be deemed waived.**

6. Motions *In Limine*. Motions *In Limine* shall be filed in writing no later than 10 court days prior to the pretrial conference. Any opposition must be filed in writing and served at least 5 court days prior to the pretrial conference.

7. Trial Briefs. The parties may file trial briefs no later than the day of the pretrial conference.

8. Proposed Findings of Fact and Conclusions of Law. In actions tried to the court without a jury, each party shall file Proposed Findings of Fact and Conclusions of Law no later than the day of the pretrial conference. In addition to the paper copy, each party shall also submit a copy of its file Proposed Findings of Fact and Conclusions of Law on a computer disk in either ASCII text or WordPerfect format.

Patricia V. Trumbull
United States Magistrate Judge